IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 567 of 2007
Date of Decision: 23.2.2007

Faman Singh and others ...Appellants

Versus

State of Haryana and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Deepak Sibal, Advocate, for the appellants.

HEMANT GUPTA, J.

The plaintiffs are in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby the suit for declaration to the effect that the plaintiffs are absolute owners in possession of the land measuring 11 bighas was dismissed by the learned trial Court on the ground that no evidence has been led by the plaintiffs. In appeal the said order has been affirmed.

It is the case of the plaintiffs that they have purchased the land measuring 37 bighas 6 biswas vide registered sale deed dated 27.2.1996 out of 42 bighas 6 biswas. Out of the said land, plaintiff Surinder Singh sold the land measuring 27 bighas 6 biswas and therefore, the plaintiffs are owners in possession of the remaining land measuring 11 bighas.

The plaintiffs sought the declaration on the ground that the officials and representatives of the respondents have approached the plaintiffs and conveyed that the ownership of the land has been lost and on the basis of some arbitrary and illegal orders, the defendants are threatening

to dispossess the plaintiffs.

For facility of reference, it would be relevant to reproduce para No. 4 of the plaint, which read as under:-

> "That the plaintiffs were approached by the officials and representatives of the defendants that ownership of the suit land has been lost and on the basis of some arbitrary and illegal order passed by the defendants by misusing their official powers and by acting in contravention of the settled principles of law and against the provisions of the rehabilitation laws and Acts and the Halqa Patwari on the basis of the same recorded Rapat Roznamacha bearing Rapat No. 145 dated 6.11.2001 wrongly and illegally and also made endorsements on the Jamabandi, they denied the title of the plaintiffs and threatened to dispossess them from the same, whereas the defendants had no rights, title or interest in the same at the relevant time as the land in question was earlier purchased by the plaintiffs from the persons recorded in the revenue record as absolute owners in possession and thereafter the plaintiffs on the basis of the revenue record and finding a clean and clear title of their vendors purchased the same as bona-fide purchaser and for valuable consideration and since then they are the absolute owners in possession of the suit land and the defendants have no right, title or interest of any kind therein."

On the basis of the aforesaid averments, the plaintiffs have sought declaration in respect of the plaintiffs being owners in possession of the land measuring 11 bighas. The plaintiffs have not led any evidence inspite of number of opportunities granted to them. Learned counsel for the appellants has vehemently argued that the counsel for the appellants has not informed the date of hearing to the plaintiffs and because of that fact alone, the plaintiffs could not lead evidence. The appellants claim one opportunity, so as to lead the entire evidence in support of their claim in the suit.

A perusal of the plaint and particularly that of para No. 4 thereof goes to show that the plaintiffs have not disclosed the order passed by the defendant-authorities, which is subject matter of challenge in the suit. As a matter of fact, the plaintiffs have not even disclosed the name of their vendor and how the vendor conveyed a valid title to the plaintiffs by virtue of the sale deed dated 27.2.1996. The present suit has been filed on totally vague pleadings without giving the complete facts, which facts would be relevant on the question whether the plaintiffs are entitled to an opportunity to lead evidence even at the stage of second appeal.

Faced with this situation, learned counsel for the appellants has pointed out that in fact challenge in the suit is to the rapat No. 145 dated 6.11.2001 as mentioned in the mutation No. 1156. However, even the rapat No. 145 dated 6.11.2001 has not been produced in the suit or with the memo of appeal. In the present appeal many documents have been appended by the appellants but not the rapat No. 145 dated 6.11.2001. In view thereof, in my opinion, no useful purpose would be served even if the appellants are granted an opportunity to lead any additional evidence at this

stage.

Thus, I do not find any patent illegality or irregularity in the findings recorded by the Courts below, which may give rise to any substantial question of law in the present appeal.

Hence, the present appeal is dismissed.

23-02-2007 (HEMANT GUPTA)
ds JUDGE